IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Special Appeal No. 5 of 2005

Uttaranchal Transport Corporation,
Through its Regional Manager,
(Kumaon Region), Nainital **.....Appellant.**

V e r s u s

1. Hari Dutt Upadhyay, S/o Sri S.D. Upadhyay, R/o B Shyampur Colony, Bazpur Road, Kashipur, District- - Udham Singh Nagar.
2. U.P. State Road Transport Corporation, through its Managing Director, Parivahan Bhawan, Lucknow.

.....Respondents

Special Appeal No. 15 of 2005

Uttar Pradesh State Road
Transport Corporation,
Therikothi, Lucknow (U.P.)
through its General Manager (Pension). **.....Appellant.**

V e r s u s

1. Sri Ganesh Dutt Tiwari, S/o late Sri Jeeba Nand Tiwari, R/o Village Balutee, P.O. – Kathgodam, District – Nainital.
2. Uttaranchal Parivahan Nigam, Head Office at Dehradun through its Managing Director, Dehradun.
3. Regional Manager, Uttaranchal Parivahan Nigam, Kumaon Region, Nainital.

.....Respondents

Coram:
Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.

1. Head Sri Sharad Sharma and Sri C.K. Sharma, learned counsel for Uttaranchal Transport Corporation, Dehradun, Sri Ramji Srivastava,

learned counsel for the Uttar Pradesh State Road Transport Corporation (hereinafter referred to as UPSRTC), Sri Subhash Upadhyay, learned counsel for the respondent no. 1 in Appeal No. 5 of 2005 and Sri I.S. Mehra for respondent no.1 in Appeal no. 15 of 2005.

2. Since the controversy raised in both the appeals is common, consequently, both the appeals are being disposed of by a common judgment. The controversy relates to payment of pension and other post retirel benefits payable to the retired employees of the then UPSRTC, who have been retired prior to 31.10.2003. In both the appeals respondents were retired prior to the aforesaid dated 31.10.2003. Sri Ganesh Dutt Tiwari was retired from service on 31.04.2002 and Sri Hari Dutt Upadhyay was retired from service 28.02.2002. Both of them are retired from Nainital region.

3. Learned single judge in writ petition no. 1317 (SS) of 2002 directed the Managing Director, Uttaranchal Road Transport Corporation to release the post retirel dues of the petitioner with 6% per annum interest within a period of six months from the date of passing of order.

4. A counter affidavit has been filed by UPSRTC in which it is stated that there is no denial of post retirel dues of the petitioner. It was further stated that due to financial constraints the UPSRTC is not position to pay dues to the petitioner. Learned Single Judge

has held that this plea cannot be a defence for nor payment of retirel dues.

5. Learned Single Judge, while allowing the writ petition no. 302 (SS) of 2004 directed the UPSRTC to make payment of the balance gratuity and other admissible dues payable to the pensioner within a period of three months failing which they shall be liable to pay the same with 6% interest from the date of retirement till the payment is made.

6. Learned counsel for UPSRTC and Uttaranchal Transport Corporation have submitted that an agreement between UPSRTC and Uttaranchal Transport Corporation have taken place on 13.06.2005 in respect of payment of pension and other post retirel dues to the retired persons of UPSRTC retired prior to creation of Uttaranchal Transport Corporation i.e. on 31.10.2003.

7. According to Clause II and III of the agreement dated 13.06.2005, UPSRTC is liable to make payment of pension to those employees, who have been retired prior to 31.10.2003 and Uttaranchal Transport Corporation is liable to make payment of other dues to the petitioners, who have been retired prior to 31.10.2003

8. In view of the aforesaid Clause II and III of agreement dated 13.06.2005, Managing Director, UPSRTC is directed to make payment of the pension to the petitioners, if any, within a period of three

months from the date of production of certified copy of this order. Uttaranchal Transport Corporation shall make payment of other dues to the petitioners, who have been retired prior to 31.10.2003 within a period of three months from the date of production of certified copy of this order.

9. Appellants may realize the payment from their counterpart in pursuance to the agreement darted 13.06.2005. To this extent order of Learned Single Judge is modified accordingly.

10. Appeals are finally disposed of. No order as to costs.

(B.S. Verma, J) (M.M. Ghildiyal, J)

July 21, 2006
SKSharma